

BOARD OF REGISTERED NURSING
Administrative Committee
Agenda Item Summary

AGENDA ITEM: 6.1

DATE: November 16, 2011

ACTION REQUESTED:

Veto of Sunset Bill SB 538 – Actions for ongoing consumer protection and continuing board functions

- Interagency Agreement (and/or MOU) with DCA or other state agency
- 2012 Legislation
- Others necessary actions prior to December 31, 2011

REQUESTED BY:

Jeannine Graves, RN
President

BACKGROUND:

In March 2010, the Board was notified that the Senate Committee on Business, Professions and Economic Development (the Committee) will resume the Sunset Review process and hold Sunset Review hearings. The Board submitted the Sunset Report to the Committee on October 1, 2010. Board staff subsequently submitted an Addendum to the Sunset Report to assess the workload and staffing in order to meet the Boards mission of public protection.

The Board's Sunset Oversight Hearing took place on March 14, 2011. Board President, Jeannine Graves; Executive Officer, Louise Bailey; and then Enforcement Division Chief, Stacie Berumen, provided testimony and answered questions before the Committee.

As a result of the Sunset Hearing, SB 538 was introduced to extend the Board's sunset date from January 1, 2012, until January 1, 2016, along with other statutory changes related to nursing programs, board meetings, and authorize the Board to hire sworn investigators who are peace officers, as is already provided to the Dental Board, Medical Board, and the Division of Investigation.

SB 538 was passed by the Assembly on September 1, 2011, and the Senate on September 7, 2011. The bill was presented to the Governor for consideration on or about September 12, 2011. On October 9, 2011, the Governor vetoed SB 538 due to pension issues related to the sworn investigators.

NEXT STEPS:

Board to consider, discuss, and make decisions based on recommended alternatives.

FISCAL IMPLICATIONS, IF ANY:

Unknown at this time.

PERSON TO CONTACT:

Louise R. Bailey, M.Ed., RN
Executive Officer
(916) 574-7600



*State and
Consumer Services Agency*

ANNA M. CABALLERO
SECRETARY

African American Museum
Building Standards Commission
Consumer Affairs
Expo Park
Fair Employment & Housing
Fair Employment & Housing Commission
Franchise Tax Board
General Services
Insurance Advisor
Privacy Protection
Science Center
Seismic Safety Commission
Personnel Board
Public Employees' Retirement System
Teachers' Retirement System
Victim Compensation &
Government Claims Board

November 12, 2011

Jeannine Graves, Board President
Board of Registered Nursing
1747 North Market Boulevard, Suite 150
Sacramento, CA 95834

Dear Ms. Graves:

This letter is to inform you about the Administration's efforts to ensure that the Board of Registered Nursing (BRN), their licensees, employees and California's consumers are not adversely impacted on January 1, 2012, when BRN sunsets and for the interim period until the Board is reconstituted by legislation.

As you know, we have been working to prepare an Interagency Agreement with the board to delegate the board's administrative, non-discretionary duties under the Nursing Practice Act to the Department of Consumer Affairs, with the expectation that the agreement and this delegation will be in effect only for the period of time until the board is reconstituted. Staff from the Department of Consumer Affairs, my agency, as well as the Governor's staff have been working to ensure a smooth transition for all parties on January 1st, and throughout the interim period.

To that end, I am providing an update of the actions that have taken place and will further take place, under the delegation provided for in the interagency agreement.

1. DCA and SCSA will work with the Department of Personnel Administration to ensure that the board's Executive Officer (Louise Bailey) is appointed to a Special Consultant position, effective January 1, 2012, which will provide a seamless transition for Ms. Bailey and for the continued operation of the program beginning on January 1st. My staff have already initiated the necessary conversations to ensure that a Special Consultant position can be used temporarily to appoint Ms. Bailey to a position that will maintain her current salary and all benefits (including her CalPERS benefits). The paperwork and transfer of position can occur well in advance of the January 1st date.

2. Under the delegation provided for in the interagency agreement, and as soon as possible, all board employees will receive a letter from DCA's Office of Human Resources. This letter will reconfirm that their employment status remains unchanged as of January 1, 2012, and that the BRN staff will continue to report to existing managers and supervisors and work locations. Just as the Executive Officer will not

Jeannine Graves, Board President
November 12, 2011
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see any changes in her job duties and functions, staff will likewise see no difference in their job duties and functions. DCA's letter will also reiterate that the Executive Officer will continue as the overall Program Manager for the operations effective January 1, 2012.

All of us value BRN's employees and appreciate that retaining their extensive programmatic knowledge is in the best interests of public protection. As Governor Brown has directed, we must take all actions necessary to protect consumers and nurses alike until the Board is reconstituted, and retaining BRN staff fulfills this goal.

Please do not hesitate to give me a call if you have any questions. In the coming months, my agency will work to ensure that the Board is statutorily reconstituted as soon as possible, so that the Board of Registered Nursing can, once again, enforce the Nursing Practice Act for the benefit of consumers and licensees.

Your efforts to protect consumers and licensees during these difficult circumstances are much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Anna M. Caballero", with a long horizontal flourish extending to the right.

Anna M. Caballero, Secretary
State and Consumer Services Agency

cc: Brian J. Stiger, Acting Director

INTERAGENCY AGREEMENT

Between the Department of Consumer Affairs
&
California Board of Registered Nursing

WHEREAS, Business and Professions Code Sections 2701 and 2708, establishing the Board of Registered Nursing ("Board") and providing for an Executive Officer to perform the duties delegated by the Board will become ineffective and repealed effective January 1, 2012; and

WHEREAS, the Nursing Practice Act has not been repealed and will remain in full force and effect; and

WHEREAS, the Board is within the Department of Consumer Affairs ("Department"); and

WHEREAS, it is the mission of the Board and Department to provide as much consumer protection as possible; and

WHEREAS, the Board has, by vote at its meeting on November 16, 2011, delegated to the Department as of December 31, 2011, those duties, powers and responsibilities that the Board has previously delegated to the Board's Executive Officer as of December 31, 2011, and, further, approved entering into this agreement; and

WHEREAS, the Board and the Department wish to provide for the continued administration of those provisions of the Nursing Practice Act that have been delegated to the Board's Executive Officer in an uninterrupted and stable manner until legislation re-establishing the Board takes effect;

NOW THEREFORE, the parties to this Interagency Agreement (hereinafter "Agreement") agree as follows:

1. The Department accepts the delegation as approved by the Board and confirmed in this Agreement, and agrees to perform all such responsibilities in the best interests of protecting the public and consistently with the Nursing Practice Act.
2. The Board hereby authorizes and empowers the Department to the extent authorized by law, and subject to the review and approval of the State and Consumer Services Agency, to exercise those powers, duties and responsibilities that have been delegated to the Board's Executive Officer as of December 31, 2011, to administer the Nursing Practice Act.
3. The Board hereby authorizes the Department to utilize any previously appropriated funds of the Board to carry out the responsibilities in administering the Nursing Practice Act in conjunction with this Agreement; and those funds shall be used for the

purposes for which the Board of Registered Nursing Fund, Professions and Vocations Fund was established.

4. The Department shall adhere to all current Board policies while this Agreement is in effect; all regulations and policies that have been adopted by the Board as of December 31, 2011, shall remain in effect until the time that legislation re-establishing the Board takes effect.

5. This Agreement shall take effect on December 31, 2011, and remain in effect until the time that legislation re-establishing the Board takes effect.

6. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

IT IS SO AGREED:

Department of Consumer Affairs ("Department")

By _____
Brian Stiger, Acting Director Date

California Board of Registered Nursing

By _____
Jeannine Graves, President Date

Approved:

By _____
Anna M. Caballero, Secretary
State and Consumer Services Agency Date